COVID – 19 GUIDANCE
MASTERS' COURTS

BANKRUPTCY AND COMPANIES

3 September 2021

During the period of the current COVID-19 outbreak, the work of the **Bankruptcy and Companies Master** will continue in accordance with the arrangements and procedures set out below.

This guidance replaces the guidance for Bankruptcy and Companies Masters Courts that was published on 16th April 2021.

KEY CHANGES TO PREVIOUS GUIDANCE

- **Re-listing of Creditors' Bankruptcy and Winding up petitions adjourned between March and June 2020**

NEW BUSINESS

Applications

1. As far as it is reasonably practicable to do so, and subject to staff availability, new applications will be allocated a return date upon filing and progressed within normal timescales.

2. Applications will, in general, be considered in the first instance on paper and standard directions given where appropriate. **Parties must not attend Court unless directed to do so.**

3. Parties should collaboratively (where possible) complete and file Form BANKCI1 which is to be filed by secure email to bankruptcyoffice@courtsni.gov.uk at **least 5 days** before the court date. The subject line of the email should state **"Bankruptcy and Companies Master's Court [Administrative] for [insert date]"**. The form should reflect any agreed directions, or submissions in relation to directions not agreed and, if relevant, confirming if and how service has been effected. Forms must be submitted in advance of all administrative reviews. Where no form is submitted the court will make whatever order it sees fit. The current **Form BANKCI1** can be accessed **here**.

4. When serving any application or other statutory process on a private individual, the moving party **must**, in the interests of justice, include a copy of this guidance along with advice to the individual as to how to access online the latest notices and directions from the Office of the Lord Chief Justice in relation to the coronavirus pandemic. For the sake of clarity, this requirement extends to statutory demands served despite the current restriction on the presentation of petitions (see below).

Creditors' bankruptcy and winding up petitions as new business

5. The restriction on the presentation of new creditors' petitions continues and is unlikely to be removed in the short term. It is also to be noted that the moratorium contained within the provisions of the Corporate Insolvency & Governance Act 2020 has been further extended.

CONTESTED MATTERS

Disposal of Contested applications – on the papers

6. Subject to consideration of any objection by the parties, the Master will continue to deal with straightforward contested applications such as Applications to Set Aside Statutory Demands, Applications for Bankruptcy Restrictions Orders, Applications for Income Payments Orders and similar applications, on the papers. She will also, where appropriate, at the request of or with the agreement of the parties, deal with all or part of more complex applications on the papers. The directions as to the filing of electronic bundles (referred to at Para 8 below) will apply to such applications.

7. In the more complex applications, bundles must include detailed written submissions together with bundles of authorities (subject to any direction by the Master as to the filing of hard copy bundles). In the more straightforward applications, the parties may file short written submissions (authorities will generally not be required). For the purpose of taxation of costs, applications dealt with on the papers, which include counsels' written submissions, will be certified for counsel.

Disposal of Contested applications – Hearing required

8. In the event that the parties cannot agree a position and there is a need for the matter to be resolved by the Court, the Master will (if circumstances and/or IT arrangements permit) facilitate a hearing via one of the following options:

a. Remote Hearing (using Sightlink or WebEx)
b. Live Hearing

c. Hybrid Hearing (partly remote /partly live)
d. Telephone Conference

9. Where the Master determines that a contested application will be dealt with via a remote, live or hybrid hearing or a telephone conference, the party who issued the application will be responsible for providing the Court with case management directions and a complete electronic trial bundle. The electronic document must be numbered in ascending order throughout. Pagination should begin with the first page of the first document and should be continued throughout the entire series of documents. The index page must be hyperlinked to the pages or documents to which it refers.

10. Parties should note that any live hearings will be strictly timetabled and capacity within the Master's Chambers and the Masters Courtroom will be restricted to ensure compliance with social distancing requirements and PHA advice. Parties will be required to carefully complete and submit form HR1 before the Court will list a contested matter.

PETITIONS

Creditors' bankruptcy and winding up petitions adjourned from March 2020 to the end of the Trinity Term 2020

11. All Creditors' Bankruptcy and Winding Up petitions adjourned between March 2020 and June 2020 have now been restored to the daily list. Initially, the petitions will be reviewed administratively, and thereafter they will be allocated a date for hearing. The review dates are now available on ICOS. **It is the petitioner's responsibility to access the relevant review date and any subsequent orders made via ICOS.** Solicitors acting for individual debtors also wishing to access relevant dates from ICOS should file a Form 6.10 (Notice of Intention to Oppose) under rule 6.018 of the Insolvency Rules (Northern Ireland) 1991 if they have not already done so.

Review

12. For the purposes of any review, the petitioner must complete the BANK CI1 form which is to be sent by secure email to bankruptcyoffice@courtsni.gov.uk **at least 5 days** before the review date. Late forms will not be accepted without the Master's permission. The subject line of the email should state **"Bankruptcy and Companies Master's Court [Administrative] for [insert date]".** Where possible, the form should be completed collaboratively. **Parties must not attend Court for the purposes of any review.**

Hearing

13. For the time being, and unless the Court directs otherwise, the petitions will be strictly timetabled and heard remotely. This will significantly reduce the number of creditors' petitions which may be heard at any time. The remote platforms currently available are SightLink and WebEx. **Parties must not attend Court** on the date and time given for the hearing of the petition.

14. The petitions will be heard in 20 minute time slots and only one petition will be heard in each. It is the petitioner's responsibility to supply to the parties the link for the hearing. The relevant Certificate of continuing debt and the Certificate of compliance under rules 6.022 and 4.014 of the Insolvency Rules (Northern Ireland) 1991 should be sent by secure email to bankruptcyoffice@courtsni.gov.uk in advance of the hearing. The subject line of the email should read **"Bankruptcy and Companies Master's Court for [insert date]"**.

15. Other creditors intending to appear on the hearing of a Creditor's petition must give notice in accordance with r.6.020 of the Insolvency Rules (Northern Ireland) 1991 (see form 6.21) and should make a request by email to bankruptcyoffice@courtsni.gov.uk to be joined to the remote hearing.

16. A Form 6.10 (Notice of Intention to Oppose) should be filed by or on behalf of a debtor in advance of the remote hearing if the individual wishes to avoid a bankruptcy order being made against them. This should be sent by secure email to bankruptcyoffice@courtsni.gov.uk in advance of the hearing. The subject line of the email should read **"Bankruptcy and Companies Master's Court for [insert date]"**.

Debtors' petitions

17. These continue to be dealt with on the papers unless the court directs otherwise.

Directors' petitions

18. These continue to be dealt with on the papers unless the court directs otherwise.

Supervisors' petitions and Administrators' petitions for winding up

19. The presentation of the petition must be accompanied by a completed HR1 form which should be emailed to bankruptcyoffice@courtsni.gov.uk. The subject line of the email should state **"Bankruptcy and Companies Master: request for hearing".** Upon receipt of the form and petition, the Master will allocate a date and time for a remote hearing in the case of a winding up petition or a remote review in the case of a bankruptcy petition. Where a petition is listed for review only, no further action should be taken on it until the Master has given directions to do so.

Ex parte petitions under the Administration of Insolvent Estates of Deceased persons Order (Northern Ireland) 1991

20. These continue to be dealt with on the papers unless the Master decides otherwise.

PUBLIC AND PRIVATE EXAMINATIONS

21. Applications for Public and Private Examinations will be listed either remotely or for a face to face hearing subject to the availability of a suitable courtroom with Covid-19 precautions.

Companies' matters

22. Applications for **extension of time to register company charges** continue to be listed for paper determination by the Court. There will be **no appearances** by any party. The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so. The requirement to produce the original charge is waived in this period and evidence of solvency will be accepted by secure email to bankruptcyoffice@courtsni.gov.uk. The subject line of the email should state **"Bankruptcy and Companies Master's Court [Administrative] for [insert date]".**

23. Applications for the **restoration of companies to the register** continue to be listed for a paper determination by the Court. There will be **no appearances.** Practitioners will, however, have to include evidence in the application of any prior insolvency of the Company for the purpose of the paper determination. The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so.

24. Applications for **rectification of the companies register** and to extend the term of an administration will, for the time being, continue to be listed for a paper determination by the Court. There will be **no appearances.** The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so.

GENERAL

Public Health Guidance

25. Public Health guidance has limited the number of people in Master Kelly's courtroom to a maximum of 5 people. This number includes the Master and the parties. Time and seating allocations must be strictly adhered to. Consultation space may not be available within the Royal Courts of Justice and this must be borne in mind and alternative consultation venues considered.

Forms

26. Practitioners should, as far as possible, collaboratively complete and submit forms in accordance with the specified timelines. The form should also be used to vacate a matter which has been allocated a time slot for a remote hearing which subsequently is not required. In that event, the office should be notified as soon as possible.

Case Tracking

27. It is the solicitor's responsibility to track the progress of their case and view court orders via the ICOS Case Tracking Online (ICTO) system. However, it is clear that some practitioners are failing to do so. In some cases, it is also being assumed that no order was made if it is not reflected on ICOS on the same day as the case. It is important to note that due to pressure on staff and resources some orders may not necessarily show on the system on the date that they are made. It is therefore essential that parties continue to check for orders beyond that date. Special attention should also be paid to the terms of orders made as some contain a provision that the order is to be served by one party on another.

Final Orders

Final orders will only be made where the Master is satisfied that either the parties have agreed such an order, or that it is right and just in all the circumstances to do so. If the Master has any concerns whatsoever about prejudice and the fairness of the process she will simply adjourn the case. Solicitors should check ICOS for the status of their case or contact the Bankruptcy Office. bankruptcyoffice@courtsni.gov.uk

Affidavits

28. Sworn affidavits should be filed unless the Master directs otherwise.

Urgent business

30. The Master will continue to expedite the listing of urgent business where genuine urgency is demonstrated.